

CONFERENCE ON DISARMAMENT

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REPORT OF THE AD HOC COMMITTEE ON PREVENTION OF AN ARMS RACE IN OUTER SPACE

I. INTRODUCTION

1. At its 637th plenary meeting on 21 January 1993, the Conference on Disarmament established an Ad Hoc Committee on the item "Prevention of an Arms Race in Outer Space" with the mandate contained in document CD/1125 of 14 February 1992.

II. ORGANIZATION OF WORK AND DOCUMENTS

2. At its 639th plenary meeting on 28 January 1993, the Conference on Disarmament appointed Ambassador Wolfgang Hoffmann of Germany as Chairman of the Ad Hoc Committee. Mr Vladimir Bogomolov, Political Affairs Officer, United Nations Office for Disarmament Affairs, served as the Committee's Secretary.

3. The Ad Hoc Committee held 17 meetings between 16 February and 18 August 1993.

4. In addition to the documents of the previous sessions^{1/} the Ad Hoc Committee had before it the following documents relating to the agenda item submitted to the Conference on Disarmament during the 1993 session:

^{1/} The List of Documents of the previous Sessions may be found in the 1985, 1986, 1987, 1988, 1989, 1990, 1991 and 1992 Reports of the Ad Hoc Committee (CD/642, CD/732, CD/787, CD/870, CD/956, CD/1039, CD/1111 and CD/1165 respectively), and in the special report to the Third Special Session of the General Assembly devoted to Disarmament (CD/834).

- CD/OS/WP.57 1993 Programme of Work
- CD/OS/WP.58
and Corr.1 Working paper entitled "Confidence-building Measures in Outer Space" submitted by Colonel Georgui Diachenko, Friend of the Chairman of the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space
- CD/OS/WP.59 Working Paper entitled "Confidence-building Measures in Outer Space, Notification of Launches of Space Objects and Ballistic Missiles" submitted by France
- CD/OS/WP.60^{2/} Chairman's Paper: Review of the work of the Ad Hoc Committee on the Prevention of an Arms Race in Outer Space on issues relating to confidence-building measures in outer-space activities
- CD/OS/WP.61 Working paper entitled "Some thoughts on the design of Confidence-Building Measures in space activities" submitted by Colonel Yuri Novosadov, Friend of the Chairman
- CD/OS/WP.62 Working paper entitled "Low-intrusiveness Measures for Monitoring a Protection Regime in Outer Space" submitted by Dr. Hubert Feigl, Expert of the Delegation of Germany
- CD/OS/WP.63 Working paper entitled "The Regulation of Nuclear Power Systems in Near-Earth Space as Confidence-Building Measures aimed at strengthening international security" submitted by Bruno Bertotti, Dipartimento di Fisica Nucleare Teorica - Università di Pavia in collaboration with Luciano Anselmo, Centro Nazionale Universitario Calcolo Elettronico, Pisa and Paolo Farinella, Dipartimento di Matematica, Università di Pisa, Italy
- CD/OS/WP.64 Working paper entitled "Terminological Groundwork for Confidence-Building Measures in Outer Space" submitted by Rafael M. Grossi, Friend of the Chairman
- CD/OS/WP.65 Chairman's Suggestions for the Future Work of the Committee
- CD/OS/WP.66 Summary of Experts' Presentations to the Ad Hoc Committee
- CD/OS/WP.67 France - Working Paper - Ballistic Missiles, Space Objects and Launchers. Definitions

III. SUBSTANTIVE WORK DURING THE 1993 SESSION

5. Following consultations on the organization of work at its first meeting on 16 February 1993, the Ad Hoc Committee adopted the following Programme of Work for the 1993 Session:

2/ CD/OS/WP.60* - reissued in English only

"1. Examination and identification of issues relevant to the prevention of an arms race in outer space.

2. Existing agreements relevant to the prevention of an arms race in outer space.

3. Existing proposals and future initiatives on the prevention of an arms race in outer space.

In carrying out its work with a view to finding and building upon areas of convergence, the Ad Hoc Committee will take into account relevant proposals, initiatives and developments since the establishment of the Committee in 1985 including those presented at the 1992 session of the Conference on Disarmament.

The practice of appointing Friends of the Chairman to organize open-ended consultations on issues of specific interest to the Committee should continue."

6. The Ad Hoc Committee agreed that it would give equal treatment to the subjects covered by its mandate and specified in its Programme of Work.

Accordingly, the Committee agreed to allocate the same number of meetings to each of those subjects, while any member wishing to do so may discuss any subject important and relevant to the work of the Committee.

7. The work of the Ad Hoc Committee was governed by the mandate which aims at the Prevention of an Arms Race in Outer Space.

8. During the meetings of the Ad Hoc Committee, various Groups and individual delegations reaffirmed or further elaborated their respective positions, the detailed descriptions of which can be found in the previous annual reports of the Committee, related Conference documents and Working Papers, and Plenary Records.

9. The Ad Hoc Committee once again benefitted from the scientific and technical contributions of experts from various delegations, who addressed the following specific issues and initiatives under consideration in the Committee: Professor B. Bertotti (Italy) "The Regulation of Nuclear Power Systems in Near-Earth Space"; Dr H. Feigl (Germany) "Low-intrusiveness Measures for Monitoring a Protection Regime in Outer Space"; Dr U. Ekblad (Sweden) "Confidence-Building Measures as Means for Enhancing Space Security"; Mr H. Baccini (France) "French Procedures used for the National and International Notification of Launches of the European Launcher Ariane IV"; Major K. Story (United States of America) "Close Encounters in Space, the Keep-Out Zone Problem"; and Professor Dr M. Abdel-Hady (Egypt) "Verification Using Satellites as Confidence-Building Measure in Disarmament Affairs". The content of those presentations is contained in document CD/OS/WP.66 dated

13 August 1993. A representative of UNIDIR briefed the Committee on the activities of the Institute in this field.

10. The Ad Hoc Committee continued to enjoy the assistance of the Friends of the Chairman who were appointed by the Chairman to deal with the following issues without prejudice to positions of delegations in open-ended consultations:

- (i) confidence-building measures in outer space (Colonel G. Diachenko, Delegation of the Russian Federation, subsequently succeeded by Colonel Y. Novosadov and Colonel V. Sukharev);
- (ii) terminology and other relevant legal aspects related to prevention of an arms race in outer space (Mr R. Grossi, Delegation of Argentina).

Summary of the efforts of the Friends of the Chairman

(a) The respective Friends of the Chairman (Russian Federation) analysed all relevant numerous proposals related to the elaboration of confidence-building measures in outer space activities submitted over the years by the members of the Ad Hoc Committee and presented their assessment in documents CD/OS/WP.58 of 12 March 1993 and Corr.1 of 22 June 1993, and CD/OS/WP.61 of 26 May 1993. These proposals covered primarily the issues of the transparency of outer space activities (provision by States of more detailed information concerning planned and actual activities in outer space), the issues of elaborating a "code of conduct" and "rules of the road" in outer space, the issues of verification, as well as issues concerning the establishment of different international organizations that would favour the actual implementation of confidence-building measures. Based on the substance of the two above-mentioned documents prepared by the Friends of the Chairman and from the consultations held, it appeared that the majority of the members of the Ad Hoc Committee supported, one way or another, the idea of using confidence-building measures as a first step towards finding an encompassing solution to the problem of preventing an arms race in outer space. Such an approach, being a phased one by its nature, would initially allow the creation of an entire system of measures removing suspicion from outer space activities conducted by States and, in the long term, focussing further efforts of the Ad Hoc Committee to find efficient means of preventing an arms race in outer space. The Friends of the Chairman were of the view that it would be appropriate to widen and change the existing mandate.

(b) The Friend of the Chairman (Argentina), proposed to the Committee a different course of action from that followed in previous exercises of the

Committee in the area of terminological and other relevant legal aspects. The methodology proposed consisted in leaving aside fundamental problems of the space debate, like the question of peaceful/non-peaceful uses of outer space or the discussion of the scope of terms like militarization in a space context, on the assumption that these had been widely discussed by analysts in different fora and academic circles for a number of years without success. The Friend of the Chairman suggested establishing a link between the terminological exercise with the area of proposals and initiatives, the latter being the one that clearly embodies the future concrete activities of the Committee. Delegations thus agreed to initially concentrate their work on terminological and other relevant legal aspects directly related to existing proposals on confidence-building measures. The Friend of the Chairman prepared, under his own responsibility, a Working Paper (CD/OS/WP.64), intended to provide a basis for the consultations that were held. That document suggested as objectives for the terminological work the following: to provide additional clarification on the scope and objectives of existing proposals; to reduce possible redundancies and overlaps which might exist between different proposals; and to assist the Ad Hoc Committee in its assessment of the political acceptability and/or technical feasibility of proposals. In keeping with these guidelines, the document of the Friend of the Chairman drew attention to an indicative list of terms drawn from existing proposals in the area of confidence-building measures, and provided cross references to existing legal instruments already including definitions of those terms. Delegations, having made specific proposals, also provided additional references as well as their own definitions for selected terms. Finally, some delegations pointed out the importance of also addressing definitions related to space weapons. In this connection they recalled proposals and Working Papers introduced in previous sessions of the Ad Hoc Committee.

11. The delegation of France introduced a proposal for the prior notification of launches of space objects and ballistic missiles (CD/OS/WP.59). It recalled that, in its view, the goal of preventing an arms race in outer space could be gradually attained through a set of measures designed to ensure the security of space activities, to establish the illegal character of aggressive uses of outer space, and to increase confidence and transparency in space activities. Moreover, it considered that, since most space technologies could be used to produce ballistic missiles able to deliver weapons of mass

destruction, there was a need to ensure, through increased transparency, that space technologies were not diverted to non-peaceful uses. France, considering that the 1975 Registration Convention was insufficient, proposed that the Conference on Disarmament negotiate a new international instrument providing for the prior notification of launches of space objects and ballistic missiles and the establishment, under the auspices of the United Nations, of an international notification centre tasked with the collection and the dissemination of the data notified by the launching States. A number of delegations supported this initiative, considering that it could offer a realistic solution to the present deadlock in the Ad Hoc Committee due to the demands for more far-reaching negotiations on the one hand, and the need for further discussions on the other.

12. The Group of 21 noted that the growing convergence of views on the elaboration of measures designed to strengthen transparency, confidence and security, could facilitate negotiations as envisaged in the mandate of the Committee. The Group maintained that the prevention of an arms race in outer space would pave the way for the exploration and peaceful uses of outer space solely for the common interest and benefit of mankind and that States with advanced space technology and capabilities had special responsibilities for the discontinuance of all weapon-related activities adversely affecting the peaceful uses of outer space. It felt that, among the concrete proposals made on confidence-building measures, many were ripe for implementation, and some elements of these could form integral parts of a multilaterally negotiated agreement on the prevention of an arms race in outer space. In this regard, whilst appreciating the work carried out so far by the Friends of the Chairman on CBMs, the Group reiterated that, because of their supplementary and interim nature, CBMs were not an end in themselves. Their treatment in this Ad Hoc Committee should in no way detract, retard, or negatively affect, the attainment of its primary objective, namely, the conclusion of an international agreement, or agreements, on the prevention of an arms race in outer space, with a view to reinforcing the existing legal régime. Such an agreement, or agreements, should themselves include, and be the very cornerstone, of CBMs. The Group of 21 took note of, and shared the view of the Chairman of the Ad Hoc Committee, on the need to widen and enrich the present mandate with a negotiating character. In this regard, it encouraged the Chairman to pursue his consultations with a view to formulating a new mandate acceptable to all. The Group also reaffirmed its willingness to work

towards filling in the gaps that existed in the present outer space legal régime and reiterated that the conclusion of a multilaterally negotiated agreement, or agreements, for the elimination of the danger to international peace and security of an arms race in outer space should remain the most important area of responsibility of the Conference on Disarmament.

13. The delegation of Argentina referred to the area of confidence-building measures as one of the cornerstones of space stability and security. It considered CBMs in outer space as an appropriate example of a preventive measure in the space field. In the view of this delegation, the use of this type of measure in space, if applied with the same zeal and scope as in the case of the European continent, could be essential to avoid an arms race in space. An updated mandate for the Committee should, in its opinion, start with the consideration of CBMs.

14. The delegation of China also emphasized that while CBMs contributed to the positive development in international relations, their role was limited for the objective of this Committee. CBMs, on their own, could not eliminate the danger of weaponization in outer space. Therefore, the discussions on CBMs should not obstruct or delay indefinitely the process of formulating an effective legal instrument banning all space weapons and preventing an arms race in outer space.

15. The delegation of China pointed out that the notification of launches of ballistic missiles was not directly related to the work of this Committee. Ballistic missiles were not space objects, and their trajectory was mostly in atmosphere and thin atmosphere. Therefore, it was not possible for them to cause collision of space objects. The issue of notification of launches of ballistic missiles exceeded the Committee's mandate and should not be dealt with by it. Consequently, the term "ballistic missile" should not necessarily be included in the discussions on terminology in the Committee. Some other delegations expressed the opposite view.

16. The delegation of India had consistently put forward the idea of a ban on testing, development and deployment of all anti-satellite weapons. The existing legal régime already posed a wide variety of legal restraints on the nature, development and the use of ASATs. Therefore, the delegation of India had subscribed to the "narrow" interpretation of the ABM Treaty that it prohibited the development, testing and deployment of sea-based, air-based, space-based and land-based ABM systems and components without regard to the technology utilised. Since satellite technology generated enormous

opportunities in the field of economic growth and international security, it was imperative that the increasing positive developments of satellite technology should be safeguarded on an urgent basis. The Committee could approach the inadequacies of the existing international régime through its progressive development to address contemporary realities and the need to prevent an arms race in outer space. Such development should not, however, conflict with other aspects of international law on outer space. Confidence-building measures should be transparent and should not impede civilian national space programmes or international cooperation in space for peaceful purposes. CBMs were not a substitute for disarmament, though India acknowledged the contribution of CBMs in reducing the risk of misperceptions. Therefore, any future terms of reference of the Ad Hoc Committee should also include the need for engaging in actual multilateral negotiations with the objective of establishing an effective legal agreement to prevent an arms race in outer space.

17. One delegation from the Group of 21 voiced concern at the fact that major Powers continued to place more sophisticated defence systems in outer space. It stated that anti-ballistic missile defence systems were contrary to the spirit of various international agreements concerning the exploration and use of outer space for the benefit and in the interests of all mankind. Increased efforts needed to be made in the Ad Hoc Committee to arrive at an international legal régime preventing the militarization of outer space. With reference to the work done by the Friends of the Chairman on confidence-building measures and on questions of terminology and other relevant legal questions, the delegation said that, while the first ones increase transparency and predictability, they should not become a substitute for the primary objective of prohibiting the development, testing, manufacture, deployment and use of all space weapons. The definition of generally accepted terms was also important but should not be seen as an end in itself; it should perhaps be tackled specifically, with an analysis of existing initiatives, in order to achieve progress in the strengthening of the existing legal régime. Hence the delegation suggested to discuss the Venezuelan proposal (document CD/851 of 2 August 1988), namely to amend Article IV of the 1967 Outer Space Treaty so as to extend the scope of the ban on weapons in space.

18. The delegation of the Netherlands stated that, due to changes in the international security environment, new possibilities had been created for the

utilization of space technology for peaceful purposes. The delegation agreed with the Chairman's conclusion that the time had come to envisage the elaboration of a legal instrument establishing CBMs. It believed that the Ad Hoc Committee could engage in negotiating a set of CBMs concerning three different subjects:

- (a) reinforcing existing legal instruments;
- (b) notification of launches of ballistic missiles; and
- (c) information concerning space activities.

Welcoming the suggestion that a new mandate should be considered for the Ad Hoc Committee, the delegation expressed the hope that it would finally be possible in 1994 to establish an Ad Hoc Committee with a mandate which would be better suited to practical needs.

19. The delegation of Poland felt that CBMs presented the most direct route to the ultimate goal - a safe and stable outer space régime. It supported the idea of using CBMs as an important instrument and an intermediate step towards that goal. It believed that a suitable legal instrument on CBMs would offer the international community a convenient "parking orbit" from which to seek to reach the final objective. The problem was one of judicious choice - which "rules of the road" should be considered, and what "code of conduct" should be contemplated first. From this point of view, Poland had no difficulty in supporting the course of action of this Committee which the Chairman had proposed in his paper CD/OS/WP.65.

20. The delegation of the Russian Federation noted that the discussion at the Committee was already focussing to a large extent on the numerous available proposals on CBMs. It was suggested that the next logical step would be to take the course of action proposed by the Chairman in his paper CD/OS/WP.65. It was pointed out that all the justifiable concerns of the States regarding the specific aspects of the proposed CBMs would be taken care of in the course of future negotiations on the subject. The delegation also shared the view that the future mandate of the Committee should stipulate that CBMs are only a first step on the road to preventing an arms race in outer space, which remains a final goal of the Committee.

21. The delegation of Sweden indicated that many useful and interesting proposals had been submitted concerning CBMs. Of special interest was the French proposal on prior notification of launchers of space objects and ballistic missiles. According to Sweden, this proposal had a vast confidence-building potential and deserved concrete treatment within the

Committee. In its view, the time was now ripe to begin solid negotiations on CBMs, and therefore the Committee should have a negotiating mandate on this issue. This kind of mandate would be a reasonable compromise between no negotiations at all and all-encompassing negotiations. In this context, it felt that a mandate along the lines of the Chairman's proposal in his working paper CD/OS/WP.65 should be seriously considered.

22. The delegation of Turkey, a non-member of the Conference on Disarmament, considered that the French proposal announced on 16 March 1993 was useful for reflection, but its application would depend on the existence of an efficient system of verification and would require universal participation for its functioning. Because of the absence of real sanctions in case of non-compliance, the system absolutely necessitated the participation of States possessing a system of detection and those who were able to launch ballistic missiles.

23. There continued to be general recognition in the Ad Hoc Committee of the importance - and urgency as seen by the majority of the delegations - of preventing an arms race in outer space and the readiness to contribute to that common objective. The work of the Committee since its establishment in 1985 had contributed to the accomplishment of this task. The debates and the presentations made by experts at this annual session with the emphasis on confidence-building measures contributed to further identifying and clarifying a number of issues relevant to the prevention of an arms race in outer space. There was again recognition of the significant role that the legal régime applicable to outer space played in the prevention of an arms race in that environment, and of the need to consolidate and reinforce that régime and enhance its effectiveness, and of the importance of strict compliance with existing agreements, both bilateral and multilateral. In the course of the deliberations, the common interest of mankind in the exploration and use of outer space for peaceful purposes was acknowledged. The Ad Hoc Committee also recalled the importance of paragraph 80 of the Final Document of the first special session devoted to disarmament, which stated that 'in order to prevent an arms race in outer space, further measures should be taken and appropriate international negotiations held in accordance with the spirit of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and other Celestial Bodies'. The Ad Hoc Committee continued its examination of existing, and some new, proposals aimed at preventing an arms race in outer space to ensure that its exploration and

use will be carried out exclusively for peaceful purposes in the common interest and for the benefit of all mankind.

24. In the context of the experts' contributions to the discussions on all aspects of the mandate and programme of work, the importance of the presentations in the Committee relating to confidence-building measures and to greater transparency and openness in outer space made in the course of the 1993 session was recognized by the Committee. Although cognizant of the various positions on these matters, the Committee also recognized the relevance of that discussion to the work of the Committee.

25. In this regard the Chairman presented suggestions for the future work of the Ad Hoc Committee and its mandate as contained in document CD/OS/WP.65, proposing a negotiating mandate on CBMs. The majority of the delegations, while emphasizing that the scope of the mandate of the Ad Hoc Committee should not be narrowed and priorities in this field not altered, held the position that the Ad Hoc Committee should be given a negotiating mandate encompassing all relevant aspects of prevention of an arms race in outer space. A number of delegations shared and supported the view of the Chairman of the Ad Hoc Committee for the need to widen and change the nature of the present mandate to enable it to negotiate on CBMs. A few States, however, believed that the Ad Hoc Committee had still not yet identified any aspect of space activities which would lend itself to negotiations.

26. The Committee noted the valuable and significant contribution to the discussions made by the experts from several delegations and expressed its appreciation to those delegations that provided contributions. The Committee equally voiced its appreciation of the work by the Friends of the Chairman and their organization of open-ended consultations on the issues of CBMs, terminology and other relevant legal aspects related to the prevention of an arms race in outer space. There was wide agreement that the conclusion of an international agreement, or agreements, to prevent an arms race in outer space remained the fundamental task of the Committee, and the concrete proposals on CBMs could form an integral part of the said agreements.

IV. CONCLUSIONS

27. It was agreed that substantive work on all these issues should continue at the next session of the Conference. Therefore, it was recommended that at the beginning of the 1994 session, the Conference on Disarmament re-establish the Ad Hoc Committee on Prevention of an Arms Race in Outer Space with an appropriate mandate, taking into account the work undertaken since 1985.